

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Appellant

OPPOSITION

MICHAEL KRICHESKY

Plaintiff,

V.

Appellee

**Civil Docket No. 20-02343-
AMD**

US Bank, NA,

Defendants.

Woods Oviatt Gilman LLP, Donald W. O'Brien, Jr. individual, Aleksandra K. Fugate, individual, Brittany J. Maxon, individual, David Bruce Wildermuth, individual, Brettanie L. Hart Saxton, individual, Victoria E. Munian, individual, Michael Thomas Jablonski, individual, and Miranda L. Sharlette a/k/a Miranda Jakubee, individual, ("Defendants") assert the following:

1. On June 6, 2019 the Debtor filed a Petition under Title 11 U.S.C. §101 et seq. in the Bankruptcy Court for the Eastern District of New York under Bankruptcy Case No. 19-43516.
2. On March 17, 2020, Wells Fargo Bank, N.A. as servicing agent for U.S. Bank National Association, as Trustee for Banc of America Funding Corporation Mortgage Pass-Through Certificates, Series 2006-F ("Secured Creditor") filed a motion for relief from the automatic stay as it pertains to the property located at 4221 Atlantic Avenue, Brooklyn NY 11224 ("Subject Property").
3. On June 16, 2020, an order granting relief from the automatic stay was entered, allowing Secured Creditor to pursue their rights under applicable state law with respect to the Subject Property.
4. On June 26, 2020, a notice of appeal of the order granting relief from the automatic stay

was filed under District Court Docket No. 20-02343.

5. On February 11, 2021, Adversary Case No. 21-01013 was commenced against various parties, including Defendants. See Adversary Case No. 21-01013 Docket attached hereto as **Exhibit A**.
6. Upon information and belief, Defendants have not been served with the adversary complaint.
7. On February 16, 2021, a motion to extend time to serve the adversary complaint for Adversary Case No. 21-01013 was filed in the Eastern District of New York under Civil Docket No. 20-02343.
8. This motion is procedurally improper and should be denied in its entirety as it was filed in the wrong court under the wrong case number.
9. The filing of a case under Title 11 establishes jurisdiction in Bankruptcy Court under 28 USCS §§ 157 and 1334.
10. As Adversary Case No. 21-01013 arises from a case under Title 11, the Bankruptcy Court of the Eastern District of New York has jurisdiction over this matter.
11. District Courts have jurisdiction to hear appeals of from Bankruptcy Court orders pursuant to 28 USCS §158. However, the motion to extend time to serve is not appealing an order at all, but rather seeks an extension of time for service in an ongoing adversary proceeding.
12. Therefore, this Court does not have jurisdiction over this matter, and Defendants request that said motion be denied.
13. In the alternative, Defendants request that service be made upon their authorized agent at 1900 Bausch and Lomb Place, Rochester NY 14604 pursuant to USCS Bankruptcy R

7004 and USCS Fed Rules Civ Proc R 4(e)(2)(C).

DATED: 3/2/2021
Rochester, New York

/s/Brittany J. Maxon
WOODS OVIATT GILMAN LLP
Brittany J. Maxon, Esq.
1900 Bausch & Lomb Place
Rochester, New York 14604
Telephone: 855-227-5072

Exhibit A

**U.S. Bankruptcy Court
Eastern District of New York (Brooklyn)
Adversary Proceeding #: 1-21-01013-ess**

Assigned to: Elizabeth S. Stong

Date Filed: 02/11/21

Lead BK Case: 19-43516

Lead BK Title: Michael Krichevsky

Lead BK Chapter: 11

Demand: \$17000000

Nature[s] of Suit: 21 Validity, priority or extent of lien or other interest in property

71 Injunctive relief - reinstatement of stay

72 Injunctive relief - other

91 Declaratory judgment

Plaintiff

Michael Krichevsky
4221 Atlantic Ave
Brooklyn, NY 11224

represented by **Michael Krichevsky**
PRO SE

V.

Defendant

US Bank, NA

represented by **US Bank, NA**
PRO SE

Defendant

Wells Fargo Bank, NA

represented by **Wells Fargo Bank, NA**
PRO SE

Defendant

Wells Fargo Home Mortgage

represented by **Wells Fargo Home Mortgage**
PRO SE

Defendant

Kelly Duncan, individual

Kelly Duncan, individual
represented by PRO SE

Defendant

Wells Fargo Home Mortgage

represented by **Wells Fargo Home Mortgage**
PRO SE

Defendant

**Stephanie Terese Tautge,
individual**

represented by **Stephanie Terese Tautge, individual**
PRO SE

Defendant

Daniel V. Edward, individual

represented by **Daniel V. Edward, individual**
PRO SE

Defendant

**Banc of America Funding
Corporation**

represented by **Banc of America Funding Corporation**
PRO SE

Defendant

**Veriprise Processing Solutions
LLC**

represented by **Veriprise Processing Solutions LLC**
PRO SE

Defendant

**Charice Lenise Gladden,
individual**

represented by **Charice Lenise Gladden, individual**
PRO SE

Defendant

Woods Oviatt Gilman, LLP

represented by **Woods Oviatt Gilman, LLP**
PRO SE

Defendant

**Donald W. O'Brien, Jr.,
individual**

represented by **Donald W. O'Brien, Jr., individual**
PRO SE

Defendant

Aleksandra K. Fugate, individual

represented by **Aleksandra K. Fugate, individual**
PRO SE

Defendant

Brittany J. Maxon, individual

represented by **Brittany J. Maxon, individual**
PRO SE

Defendant

**David Bruce Wildermuth,
individual**

represented by **David Bruce Wildermuth, individual**
PRO SE

Defendant

**Brettanie L. Hart Saxton,
individual**

represented by **Brettanie L. Hart Saxton, individual**
PRO SE

Defendant

Victoria E. Munian, individual

represented by **Victoria E. Munian, individual**
PRO SE

Defendant

**Michael Thomas Jablonski,
individual**

represented by **Michael Thomas Jablonski, individual**
PRO SE

Defendant

**Miranda L. Sharlette a/k/a
Miranda Jakubec, individual**

represented by **Miranda L. Sharlette a/k/a Miranda Jakubec, individual**
PRO SE

Defendant

**Frenkel Lambert Weiss Weisman
Gordon, LLP**

represented by **Frenkel Lambert Weiss Weisman Gordon, LLP**
PRO SE

Defendant

Barry M. Weiss, individual

represented by **Barry M. Weiss, individual**
PRO SE

Defendant

Provest, LLC

represented by **Provest, LLC**
PRO SE

Defendant

Woody Dorsonne, individual

represented by **Woody Dorsonne, individual**
PRO SE

Defendant

Reed Smith LLP

represented by **Reed Smith LLP**
PRO SE

Defendant

Natsayi Mawere, individual

represented by **Natsayi Mawere, individual**
PRO SE

Defendant

Jennifer L. Achilles, individual

represented by **Jennifer L. Achilles, individual**
PRO SE

Defendant

**Estate of diseased Noach Dear,
individual**

represented by **Estate of diseased Noach Dear, individual**
PRO SE

Defendant

Shmuel Taub, individual

represented by **Shmuel Taub, individual**
PRO SE

Defendant

Steven J. Baum, P.C.

represented by **Steven J. Baum, P.C.**
PRO SE

Defendant

Steven J. Baum, individual

represented by **Steven J. Baum, individual**
PRO SE

Defendant

Elpiniki M. Bechakas; individual represented by **Elpiniki M. Bechakas; individual**
PRO SE

Defendant

**Jane and John Doe 1-100,
individuals** represented by **Jane and John Doe 1-100, individuals**
PRO SE

| Filing Date | # | Docket Text |
|-------------|-------------------------------|---|
| 02/11/2021 | <u>1</u> (108 pgs; 2 docs) | Adversary case 1-21-01013. Complaint by Michael Krichevsky against US Bank, NA, Wells Fargo Bank, NA, Wells Fargo Home Mortgage, Kelly Duncan, individual, Wells Fargo Home Mortgage, Stephanie Terese Tautge, individual, Daniel V. Edward, individual, Banc of America Funding Corporation, Veriprise Processing Solutions LLC, Charice Lenise Gladden, individual, Woods Oviatt Gilman, LLP, Donald W. O'Brien, Jr., individual, Aleksandra K. Fugate, individual, Brittany J. Maxon, individual, David Bruce Wildermuth, individual, Brettanie L. Hart Saxton, individual, Victoria E. Munian, individual, Michael Thomas Jablonski, individual, Miranda L. Sharlette a/k/a Miranda Jakubec, individual, Frenkel Lambert Weiss Weisman Gordon, LLP, Barry M. Weiss, individual, Provest, LLC, Woody Dorsonne, individual, Reed Smith LLP, Natsayi Mawere, individual, Jennifer L. Achilles, individual, Estate of diseased Noach Dear, individual, Shmuel Taub, individual, Steven J. Baum, P.C., Steven J. Baum, individual, Elpiniki M. Bechakas; individual, Jane and John Doe 1-100, individuals. Fee Amount \$350. Nature(s) of Suit: (21 (Validity, priority or extent of lien or other interest in property)), (71 (Injunctive relief - reinstatement of stay)), (72 (Injunctive relief - other)), (91 (Declaratory judgment)). (Attachments: # <u>1</u> Adversary Cover Sheet) Filed Via Electronic Dropbox (drk) (Entered: 02/12/2021) |
| 02/12/2021 | <u>2</u> (2 pgs) | Summons and Notice of Pre-Trial Conference issued by Clerk's Office against Jennifer L. Achilles, individual Answer Due: 3/15/2021; Banc of America Funding Corporation Answer Due: 3/15/2021; Steven J. Baum, P.C. Answer Due: 3/15/2021; Steven J. Baum, individual Answer Due: 3/15/2021; Elpiniki M. Bechakas; individual Answer Due: 3/15/2021; Woody Dorsonne, individual Answer Due: |

| | | |
|------------|---|---|
| | | 3/15/2021; Kelly Duncan, individual Answer Due: 3/15/2021; Daniel V. Edward, individual Answer Due: 3/15/2021; Estate of diseased Noach Dear, individual Answer Due: 3/15/2021; Frenkel Lambert Weiss Weisman Gordon, LLP Answer Due: 3/15/2021; Aleksandra K. Fugate, individual Answer Due: 3/15/2021; Charice Lenise Gladden, individual Answer Due: 3/15/2021; Brettanie L. Hart Saxton, individual Answer Due: 3/15/2021; Michael Thomas Jablonski, individual Answer Due: 3/15/2021; Jane and John Doe 1-100, individuals Answer Due: 3/15/2021; Natsayi Mawere, individual Answer Due: 3/15/2021; Brittany J. Maxon, individual Answer Due: 3/15/2021; Victoria E. Munian, individual Answer Due: 3/15/2021; Donald W. O'Brien, Jr., individual Answer Due: 3/15/2021; Provest, LLC Answer Due: 3/15/2021; Reed Smith LLP Answer Due: 3/15/2021; Miranda L. Sharlette a/k/a Miranda Jakubec, individual Answer Due: 3/15/2021; Shmuel Taub, individual Answer Due: 3/15/2021; Stephanie Terese Tautge, individual Answer Due: 3/15/2021; US Bank, NA Answer Due: 3/15/2021; Veriprise Processing Solutions LLC Answer Due: 3/15/2021; Barry M. Weiss, individual Answer Due: 3/15/2021; Wells Fargo Bank, NA Answer Due: 3/15/2021; Wells Fargo Home Mortgage Answer Due: 3/15/2021; Wells Fargo Home Mortgage Answer Due: 3/15/2021; David Bruce Wildermuth, individual Answer Due: 3/15/2021; Woods Oviatt Gilman, LLP Answer Due: 3/15/2021 Pre-Trial Conference set for 4/15/2021 at 11:00 AM at Courtroom 3585 (Judge Stong), Brooklyn, NY. (drk) (Entered: 02/12/2021) |
| 02/12/2021 | <u>3</u> (3 pgs; 2 docs) | Court's Service List(RE: related document(s) <u>2</u> Summons and Notice of Pre-Trial Conference (Auto)) (drk) (Entered: 02/12/2021) |
| 02/14/2021 | <u>4</u> (3 pgs) | BNC Certificate of Mailing with Application/Notice/Order Notice Date 02/14/2021. (Admin.) (Entered: 02/15/2021) |
| 02/16/2021 | <u>5</u> (73 pgs) | Correction Notice for Exhibits for Adversary Complaint (RE: related document(s) <u>1</u> Complaint filed by Plaintiff Michael Krichevsky) Filed Via Electronic Drop Box (tmk) (Entered: 02/16/2021) |

| PACER Service Center | | | |
|----------------------|----------|--------------|--------------------------------------|
| Transaction Receipt | | | |
| 03/02/2021 10:14:16 | | | |
| PACER Login: | kphoen12 | Client Code: | |
| Description: | Docket | Search | 1-21-01013-ess Fil or Ent: filed Doc |

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Appellant

CERTIFICATE OF SERVICE

MICHAEL KRICHESKY

Plaintiff,

Civil Docket No. 20-02343-AMD

V.

Appellee

US Bank, NA,

Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 2, 2021, I caused the foregoing Opposition, including all attachments to be electronically filed with the Clerk of Court by using the CM/ECF system, and provided a true correct copy of said document including all attachments to a vendor for mailing by U.S. Postal Service First Class Main Postage Prepaid or FedEx to the following parties:

Michael Krichevsky
4221 Atlantic Ave
Brooklyn, NY 11224

/s/ Kevin P. Hoenig

Kevin P. Hoenig
Bankruptcy Clerk